

WACHTELL, LIPTON, ROSEN & KATZ

MARTIN LIPTON
HERBERT M. WACHTELL
EDWARD D. HERLIHY
DANIEL A. NEFF
STEVEN A. ROSENBLUM
JOHN F. SAVARESE
SCOTT K. CHARLES
JODI J. SCHWARTZ
ADAM O. EMMERICH
RALPH M. LEVENE
RICHARD G. MASON
ROBIN PANOVA
DAVID A. KATZ
ILENE KNABLE GOTTS
ANDREW J. NUSSBAUM
RACHELLE SILVERBERG
STEVEN A. COHEN
DEBORAH L. PAUL
DAVID C. KARP
RICHARD K. KIM
JOSHUA R. CAMMAKER
MARK GORDON

JEANNEMARIE O'BRIEN
WAYNE M. CARLIN
STEPHEN R. DIPRIMA
NICHOLAS G. DEMMO
IGOR KIRMAN
JONATHAN M. MOSES
T. EIKO STANGE
WILLIAM SAVITT
GREGORY E. OSTLING
DAVID B. ANDERS
ADAM J. SHAPIRO
NELSON O. FITTS
JOSHUA M. HOLMES
DAVID E. SHAPIRO
DAMIAN G. DIDDEN
IAN BOCZKO
MATTHEW M. GUEST
DAVID E. KAHAN
DAVID K. LAM
BENJAMIN M. ROTH
JOSHUA A. FELTMAN
ELAINE P. GOLIN

51 WEST 52ND STREET
NEW YORK, N.Y. 10019-6150

TELEPHONE: (212) 403-1000

FACSIMILE: (212) 403-2000

GEORGE A. KATZ (1965-1989)
JAMES H. FOGELSON (1967-1991)
LEONARD M. ROSEN (1965-2014)

OF COUNSEL

ANDREW R. BROWNSTEIN
MICHAEL H. BYOWITZ
KENNETH B. FORREST
BEN M. GERMANA
SELWYN B. GOLDBERG
PETER C. HEIN
JB KELLY
JOSEPH D. LARSON
LAWRENCE S. MAKOW
PHILIP MINDLIN
THEODORE N. MIRVIS
DAVID S. NEILL

TREVOR S. NORWITZ
ERIC S. ROBINSON
ERIC M. ROSOF
MICHAEL J. SEGAL
WON S. SHIN
DAVID M. SILK
ELLIOTT V. STEIN
LEO E. STRINE, JR.*
PAUL VIZCARRONDO, JR.
JEFFREY M. WINTNER
AMY R. WOLF
MARC WOLINSKY

* ADMITTED IN DELAWARE

COUNSEL

DAVID M. ADLERSTEIN
SUMITA AHUJA
FRANCO CASTELLI
ANDREW J.H. CHEUNG
PAMELA EHRENKRANZ
ALINE R. FLODR
KATHRYN GETTLES-ATWA
LEDINA GOCAJ
ADAM M. GOGOLAK
ANGELA K. HERRING

MICHAEL W. HOLT
DONGHWA KIM
MARK A. KOENIG
CARMEN X.W. LU
J. AUSTIN LYONS
ALICIA C. MCCARTHY
JUSTIN R. ORR
NEIL M. SNYDER
JEFFREY A. WATIKER

EMIL A. KLEINHAUS
KARESSA L. CAIN
RONALD C. CHEN
BRADLEY R. WILSON
GRAHAM W. MELI
GREGORY E. PESSIN
CARRIE M. REILLY
MARK F. VEBLEN
SARAH K. EDDY
VICTOR GOLDFELD
RANDALL W. JACKSON
BRANDON C. PRICE
KEVIN S. SCHWARTZ
MICHAEL S. BENN
ALISON Z. PREISS
TIJANA J. DVORNIC
JENNA E. LEVINE
RYAN A. McLEOD
ANITHA REDDY
JOHN L. ROBINSON
JOHN R. SOBOLEWSKI
STEVEN WINTER

EMILY D. JOHNSON
JACOB A. KLING
RAAJ S. NARAYAN
VIKTOR SAPEZHNIKOV
MICHAEL J. SCHOBEL
ELINA TETELBAUM
ERICA E. AHO
LAUREN M. KOFKE
ZACHARY S. PODOLSKY
RACHEL B. REISBERG
MARK A. STAGLIANO
CYNTHIA FERNANDEZ
LUMERMANN
CHRISTINA C. MA
NOAH B. YAVITZ
BENJAMIN S. ARFA
NATHANIEL D. CULLERTON
ERIC M. FEINSTEIN
ADAM L. GOODMAN
STEVEN R. GREEN
MENG LU

DIRECT DIAL: (212) 403-1313

DIRECT FAX: (212) 403-2313

E-MAIL: NDCULLERTON@WLRK.COM

July 26, 2024

Via ECF

The Honorable Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, NY 10007

Re: *Cheyne Capital US, LP v. Medical Properties Trust, Inc.*,
1:24-mc-218 (VEC) – Response to Order to Show Cause
(Dkt. 20)

Dear Judge Caproni:

Respondent Medical Properties Trust, Inc. (“MPT”) hereby responds to the Court’s July 19, 2024 Order to Show Cause why the Court should not reconsider its decision to grant MPT’s motion to seal (Dkt. 20).

MPT’s motion to seal concerned nonpublic information in two documents: Exhibits 2 and 4 to the Declaration of Nathaniel Cullerton in support of MPT’s opposition to the motion to quash. Dkts. 13-1, 13-2. Both documents were produced by Defendants in the

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underlying defamation action and designated “Confidential” by Defendants under the Protective Order governing that action. *See Med. Props. Tr., Inc. v. Viceroy Rsch. LLC*, No. 2:23-cv-00408, Dkt. 72 (N.D. Ala. Nov. 16, 2023). Thus, after conferring with Defendants, and at their request, MPT sought confidential treatment of the information in Exhibits 2 and 4, portions of which also appeared in Exhibit 24 and in MPT’s opposition brief. *See* Dkts. 13, 13-3. MPT’s redactions were made out of an abundance of caution given Defendants’ position that the underlying documents were Confidential.

Given the disclosures in Cheyne Capital US, LP’s briefing, MPT does not oppose refileing Exhibit 24 and the opposition brief without redaction. To the extent the Court’s Order to Show Cause also contemplates the public filing of Exhibits 2 and 4, those documents contain additional information—including certain contractual provisions and the identity of one of Viceroy’s other targets—that remains nonpublic. Ultimately, however, Exhibits 2 and 4 were designated Confidential by Defendants, not by MPT, and Defendants are best positioned to explain whether those documents should remain sealed and why. MPT takes no position on the need for continued confidential treatment of Exhibits 2 and 4, and will refile both publicly if so ordered.

MPT has notified Defendants in the underlying defamation action of the Court’s Order and of MPT’s positions expressed herein so that Defendants may submit their own response regarding confidential treatment should they so choose.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nathaniel D. Cullerton', with a stylized, flowing script.

Nathaniel D. Cullerton